

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

PROPERTY OF THE PEOPLE, INC.,  
1712 Eye St., NW, Suite 915  
Washington, DC 20006,

Civil Action No. \_\_\_\_\_

and

RYAN NOAH SHAPIRO  
707 Pelton Ave. #314  
Santa Cruz, CA 95060,

vs.

DEPARTMENT OF STATE  
2201 C St., N.W.,  
Washington, DC 20520,

DEPARTMENT OF HEALTH AND HUMAN  
SERVICES  
200 Independence Ave., SW  
Washington, DC 20201

DEPARTMENT OF JUSTICE  
950 Pennsylvania Ave., NW,  
Washington, DC 20530,

DEPARTMENT OF HOMELAND  
SECURITY  
245 Murray Lane, S.W.,  
Washington, DC 20528,

DEPARTMENT OF THE INTERIOR  
1849 C Street, N.W.,  
Washington DC 20240,

UNITED STATES ARMY  
1500 Defense Pentagon,  
Washington, DC 20310,

DEPARTMENT OF VETERANS AFFAIRS  
810 Vermont Avenue, N.W.,  
Washington DC 20420,

UNITED STATES DEPARTMENT OF  
AGRICULTURE,  
1400 Independence Avenue, S.W.,

Washington, DC 20250, )  
 )  
and )  
 )  
DEPARTMENT OF DEFENSE )  
1000 Defense Pentagon )  
Washington, DC 20301, )  
 )  
DEFENDANTS )  
 )  
\_\_\_\_\_ )

**COMPLAINT**

**THE PARTIES**

1. Property of the People, Inc. is a 501(c)(3) charitable organization dedicated to governmental transparency in the service of democracy.

2. Plaintiff Dr. Ryan Noah Shapiro is a founder of Property of the People. Dr. Ryan Noah Shapiro received his Ph.D. from the Department of Science, Technology, and Society (HASTS) at the Massachusetts Institute of Technology, as well as a former Research Affiliate at the Berkman Klein Center for Internet & Society at Harvard University. Plaintiff Dr. Ryan Noah Shapiro is a historian of national security, the policing of dissent, and governmental transparency.

3. Defendant Department of State (DOS) is an agency of the U.S. government.

4. Defendant Department of Health and Human Services (HHS) is an agency of the US government.

5. Center for Disease Control (CDC) is a component of Defendant HHS.

6. Defendant Department of the Interior (DOI) is an agency of the U.S. government.

7. Bureau of Land Management (BLM) is a component of Defendant DOI.

8. Defendant United States Army (Army) is an agency of the U.S. government.

9. Defendant Department of Veterans Affairs (VA) is an agency of the U.S. government.

10. Defendant Department of Defense (DOD) is an agency of the U.S. government.
11. Defendant United States Department of Agriculture (USDA) is an agency of the U.S. government.
12. Defendant Department of Justice (DOJ) is an agency of the U.S. government.
13. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is a component of Defendant DOJ.
14. Defendant Department of Homeland Security (DHS) is an agency of the U.S. government.
15. Immigration and Customs Enforcement (ICE) and the U.S. Secret Service (USSS) are components of Defendant DHS.
16. DOS, CDC, DOI, BLM, Army, VA, DOD, USDA, ATF, ICE, and USSS have possession, custody and control of the records Plaintiffs seek.

#### JURISDICTION AND VENUE

17. This action arises under the Freedom of Information Act (“FOIA”), 5 USC § 552.
18. This Court has jurisdiction over the parties and subject matter pursuant to 5 USC § 552(a)(4)(B).
19. Venue is proper in this district pursuant to 5 USC § 552(a)(4)(B).

#### STATEMENT OF FACTS

##### Plaintiffs’ FOIA Requests

##### *Department of State*

20. On March 8, 2018, Plaintiffs submitted to DOS via fax a FOIA request for records constituting correspondence between DOS and the National Rifle Association (NRA) about specific topics. Plaintiffs directed their request to the DOS Directorate of Defense Trade Controls. Plaintiffs requested a waiver of fees.

21. On May 1, 2018, DOS acknowledged Plaintiffs' request and assigned it tracking number F-2018-01893. In their acknowledgement letter, DOS placed Plaintiffs in the "all other" requester category and deferred their decision to grant a waiver of fees.

22. On May 21, 2018, Plaintiffs submitted an administrative appeal to DOS via fax challenging the decision of DOS in its entirety, including but not limited to the placement of Plaintiffs in the "all other" requester category. In this appeal, Plaintiffs offered support for placing Plaintiffs in the news media category.

23. More than 20 days have elapsed since both the filing of Plaintiffs' request for records and Plaintiffs' administrative appeal, but as of the filing of this Complaint, Plaintiffs have neither received a final response from DOS as to whether DOS will produce the requested records, nor a response from DOS regarding Plaintiffs' administrative appeal.

*Center for Disease Control*

24. On May 3, 2018, Plaintiffs submitted via email to CDC a request for records pertaining to gun violence research, gun violence data, and certain CDC policies about these subjects. Plaintiffs requested a waiver of fees.

25. On May 8, 2018, CDC acknowledged receipt of Plaintiffs' request and assigned it tracking number 18-00676-FOIA. Simultaneously, CDC informed Plaintiffs that Plaintiffs' request, as written, was overly broad.

26. On May 14, 2018, Plaintiffs revised and narrowed the scope of their FOIA request in accordance with CDC's suggestions and resubmitted it via email.

27. More than 20 business days have elapsed since Plaintiffs submitted their request for records to CDC, but as of the filing of this Complaint, Plaintiffs have not received a final

response from CDC regarding whether CDC will release the requested records or grant a fee waiver.

*Bureau of Alcohol, Tobacco, Firearms, and Explosives*

28. On March 8, 2018, Plaintiffs submitted to ATF via email a FOIA request for records constituting correspondence between ATF and the National Rifle Association (NRA), the American Suppression Association, and a U.S. Congressman about specific topics. Plaintiffs requested a waiver of fees.

29. On March 9, 2018, ATF acknowledged Plaintiffs' request and assigned it tracking number 2018-0634. ATF granted Plaintiffs' request for a waiver of fees.

30. More than 20 business days have elapsed since Plaintiffs submitted their request for records to ATF, but as of the filing of this Complaint, Plaintiffs have not received a final response from ATF regarding whether ATF will release the requested records or grant a waiver of fees.

*Immigration and Customs Enforcement*

31. On August 20, 2018, Plaintiffs submitted to ICE via email a request for records for records of expenditures to the National Rifle Association.

32. On August 27, 2018, ICE acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking number 2018-ICFO-57844. Simultaneously, ICE deemed Plaintiffs' request not reasonably described.

33. On September 6, 2018, Plaintiffs provided clarification and a narrowed scope of their FOIA request to ICE.

34. On September 12, 2018, ICE emailed to Plaintiffs an acknowledgement letter stating that their FOIA request has been perfected and is ready for processing. ICE also invoked a ten-day extension.

35. More than 30 business days have elapsed since Plaintiffs submitted their perfected request for records to ICE, but as of the filing of this Complaint, Plaintiffs have not received a final response from ICE regarding whether ICE will release the requested records.

*United States Secret Service*

36. On March 8, 2018, Plaintiffs submitted to USSS via fax a request for records constituting correspondence between USSS and the National Rifle Association on a specific topic. Plaintiffs requested a waiver of fees.

37. On April 30, 2018, USSS acknowledged receipt of Plaintiffs' request and assigned it tracking number 20180780. USSS deferred ruling on Plaintiffs' request for a waiver of fees.

38. More than 20 business days have elapsed since Plaintiffs submitted their request for records to USSS, but as of the filing of this Complaint, Plaintiffs have not received a final response from USSS regarding whether USSS will release the requested records or grant a waiver of fees.

*United States Army*

39. On August 20, 2018, Plaintiffs submitted to the Army via email a request for records of expenditures to the National Rifle Association. Plaintiffs requested a fee waiver.

40. On September 6, 2018, the Army acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking number FA 18-1814/FP-18-28571. The Army did not mention Plaintiffs' fee waiver.

41. More than 20 business days have elapsed since Plaintiffs submitted their request for records to the Army, but as of the filing of this Complaint, Plaintiffs have not received a final response from the Army regarding whether the Army will release the requested records.

*Department of Defense*

42. On August 20, 2018, Plaintiffs submitted to the DOD via fax a request for records for records of expenditures to the National Rifle Association.

43. On August 31, 2018 the DOD acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking number 18-F-1538. Simultaneously, the DOD informed Plaintiffs that the FOIA request was too broad as written.

44. On September 26, 2018, Plaintiffs had a phone call with the DOD, memorialized in an email the same day, narrowing the scope of request 18-F-1538.

45. More than 20 business days have elapsed since Plaintiffs submitted their perfected request for records to the DOD, but as of the filing of this Complaint, Plaintiffs have not received a final response from the DOD regarding whether the DOD will release the requested records.

*Department of Veterans Affairs*

46. On August 20, 2018, Plaintiffs submitted to the VA via USPS a request for records for records of expenditures to the National Rifle Association.

47. On August 31, 2018, the VA acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking numbers 18-11739-F and 18-11936-F.

48. On September 27, 2018, the VA provided responsive documents to Plaintiffs for request 18-11739-F.

49. On October 11, 2018, Plaintiffs submitted an administrative appeal to the VA challenging the VA's release for request number 18-11739-F in its entirety, including the adequacy of the search.

50. On October 23, 2018, the VA acknowledged receipt of Plaintiffs' administrative appeal and assigned it tracking number 99765.

51. More than 20 business days have elapsed since Plaintiffs submitted their administrative appeal, but as of the filing of this Complaint, Plaintiffs have not received a final response from the VA regarding their administrative appeal.

#### *Department of the Interior*

52. On August 20, 2018, Plaintiffs submitted to DOI via email a request for records for records of expenditures to the National Rifle Association. Plaintiffs requested a waiver of fees.

53. On August 22, 2018, DOI acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking number OS-2018-01531. DOI simultaneously invoked a ten-day extension.

54. More than 30 business days have elapsed since Plaintiffs submitted their request for records to DOI, but as of the filing of this Complaint, Plaintiffs have not received a final response from DOI regarding whether DOI will release the requested records.

#### *Bureau of Land Management*

55. On August 20, 2018, Plaintiffs submitted to BLM via email a request for records for records of expenditures to the National Rifle Association.

56. More than 20 business days have elapsed since Plaintiffs submitted their request for records to BLM, but as of the filing of this Complaint, Plaintiffs have not received an

acknowledgement letter, tracking number, or a final response from BLM regarding whether BLM will release the requested records.

*United States Department of Agriculture*

57. On August 20, 2018, Plaintiffs submitted to the USDA via email a request for records for records of expenditures to the National Rifle Association. Plaintiffs sought fee status as a member of the news media.

58. On August 22, 2018, the USDA acknowledged receipt of Plaintiffs' FOIA request and assigned it tracking number 2018-DA-05735-F. Simultaneously, the USDA denied Plaintiffs' request for special requester status. USDA also invoked a ten-day extension.

59. On August 27, 2018, Plaintiffs submitted to the USDA an administrative appeal challenging the USDA's denial of Plaintiff's request for special fee status. In this appeal, Plaintiffs offered support for placing Plaintiffs in the news media category.

60. More than 30 business days have elapsed since Plaintiffs submitted their request for records to the USDA, but as of the filing of this Complaint, Plaintiffs have not received a final response from the USDA regarding whether the USDA will release the requested records.

61. More than 20 business days have elapsed since Plaintiffs submitted their administrative appeal to the USDA, but as of the filing of this Complaint, Plaintiffs have not received a final response from the USDA regarding their administrative appeal.

COUNT I:  
VIOLATION OF FOIA

62. This Count realleges and incorporates by reference all of the preceding paragraphs. All documents referenced in this Complaint are incorporated by reference as if set forth fully herein.

63. DOS, CDC, DOI, BLM, Army, VA, DOD, USDA, ATF, ICE, and USSS have improperly withheld responsive records.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- (1) Declare Defendants' failure to comply with FOIA to be unlawful;
- (2) Order Defendants to grant Plaintiffs' requests for fee waivers and to grant Plaintiffs' fee status as members of the media and/or educational requesters.
- (3) Order Defendants to immediately process Plaintiffs' FOIA request;
- (4) Grant Plaintiffs an award of attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC § 552(a)(4)(E)(i);
- (5) Grant Plaintiffs such other and further relief which the Court deems proper.

Dated: December 19, 2018

Respectfully Submitted,

/s/ Joseph Creed Kelly [DC Bar 980286]  
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